

MARCUS A. THORPE,)
)
 Plaintiff,)
)
 vs.)
) **ORDER**
 DERRICK COPELAND, et al.,)
)
 Defendants.)
 _____)

Pro se Plaintiff Marcus A. Thorpe is a prisoner of the State of North Carolina currently incarcerated at Maury Correctional Institution in Maury, North Carolina. Plaintiff filed this action pursuant to 42 U.S.C. § 1983 on October 1, 2018. [Doc. 1]. The case proceeded to trial and a jury returned a verdict in favor of the remaining Defendants. [Doc. 98]. On March 28, 2023, Plaintiff filed a Notice of Appeal. [Doc. 101]. Now before the Court is Plaintiff's recent filing in which he states, "I was instructed to file the notice to clerk by the Judge and that I will then receive rule regarding the appeal. However it is the 6th of April and I have yet to receive them." [Doc. 105].

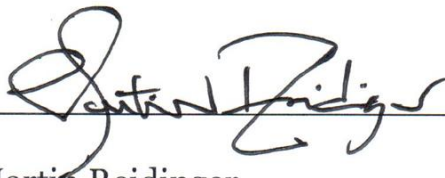
Generally, “the filing of a timely and sufficient notice of appeal immediately transfers jurisdiction of all matters relating to the appeal from the district court to the court of appeals.” Hunter v. Town of Mocksville, 271 F.Supp.3d 787 (M.D.N.C. Sept. 21, 2017) (quoting Grand Jury Proceedings Under Seal v. United States, 947 F.2d 1188, 1190 (4th Cir. 1991)). “Nonetheless, a district court retains jurisdiction to act in three discreet circumstances: (1) when a matter is not related to the issue involved in the appeal; (2) when the order appealed is not appealable or is clearly frivolous; and (3) when a district court’s action would aid in the appeal.” In re Bryant, 175 B.R. 9, 11-12 (W.D. Va. Nov. 2, 1994). Here, the Court retains jurisdiction over Plaintiff’s motion because action by the Court would aid in appeal. The Court will deny Plaintiff’s motion. It seems Plaintiff may either be requesting a copy of some unidentified “rule” of which the Court is unaware or that Plaintiff seeks an immediate ruling on his appeal. In either case, the Court is without basis to act. The Fourth Circuit Court of Appeals will decide Plaintiff’s appeal and, as Plaintiff has previously been advised [see Doc. 93], the Court generally does not provide copies of applicable rules to litigants.

The Plaintiff is strongly admonished against filing in further motions or documents with this Court in this action while his appeal is pending.

IT IS, THEREFORE, ORDERED that Plaintiff's motion [Doc. 105] is **DENIED.**

IT IS SO ORDERED.

Signed: April 16, 2023



Martin Reidinger
Chief United States District Judge

